

**Iowa Department of Natural Resources  
Environmental Protection Commission**

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<b>ITEM</b>	<b>11</b>	<b>DECISION</b>
<b>TOPIC</b>		<b>Notice of Intended Action – Chapter 61 – Water Quality Standards (Stream Reclassifications via Use Assessment and Use Attainability Analyses – Batch #2)</b>

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The commission will be asked to approve a Notice of Intended Action regarding proposed rulemaking to amend the recreational and warm water aquatic life use designations for **138** river and stream segments.

Recent rulemaking and 2006 legislative action have brought the DNR's water quality rules towards compliance with federal Clean Water Act requirements and U.S. Environmental Protection Agency (EPA) regulations, establishing new levels of protection for water quality. As an outcome of these efforts, all 26,000 miles of Iowa's perennial (flowing year-round) streams and intermittent streams with perennial pools are initially protected at the highest levels for recreation and warm water aquatic life uses. These actions provide initial protection for many miles of perennial streams that were previously not designated for aquatic life and/or recreational uses before.

Under these new rules, it is presumed that all perennial streams and rivers are attaining the highest level of recreation and aquatic life uses and should be protected for activities such as fishing and swimming. This concept of assigning all perennial streams the highest use designation, unless assessments show that the stream does not deserve that level of protection, is referred to as the "rebuttable presumption". Included in the federal regulations are the provisions that allow for scientific analysis of these "presumed" recreational and aquatic life uses. An integral part of implementing the new rules is verifying that a stream is capable of supporting the presumed uses.

The concept of Use Assessment and Use Attainability Analysis (UA/UAA) is being applied by the DNR as a step-by-step process to gather site-specific field data on stream features and uses. The DNR then assesses available information to determine if the "presumed" recreational and aquatic life uses are appropriate.

The DNR elected to perform a UA/UAA on any newly designated stream that receives a continuous discharge from a facility with a National Pollutant Discharge Elimination System (NPDES) permit. Prior to issuing a NPDES permit for an affected facility, the DNR must complete a UA/UAA for the receiving stream or stream network. Each use designation revision recommendation proposed in the NOIA has an associated UA/UAA that is available on the department's web site at:

<http://programs.iowadnr.gov/uua/search.aspx>

Charles C. Corell, Chief of Water Quality Bureau  
Environmental Services Division  
January 26, 2009

## ENVIRONMENTAL PROTECTION COMMISSION[567]

### **Notice of Intended Action**

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 61, "Water Quality Standards," Iowa Administrative Code.

The amendment being proposed will:

1. Revise and list approximately 33 river and stream segments as Class A2 Secondary Contact Recreational Use designated waters in the rule-referenced document "Surface Water Classification."

2. Revise and list approximately 83 river and stream segments as Class A2 Secondary Contact Recreational Use and Class B(WW-2) Warm Water-Type 2 designated waters in the rule-referenced document "Surface Water Classification."

3. Revise and list 4 stream segments as Class A2 Secondary Contact Recreational Use and Class B(WW-3) Warm Water-Type 3 designated waters in the rule-referenced document "Surface Water Classification."

4. Revise and list 6 river and stream segments as Class A3 Children's Recreational Use and Class B(WW-2) Warm Water-Type 2 designated waters in the rule-referenced document "Surface Water Classification."

5. Revise and list 11 river and stream segments as Class A3 Children's Recreational Use designated waters in the rule-referenced document "Surface Water Classification."

6. Revise and list 1 stream segment as Class HH Human Health designated water in the rule-referenced document "Surface Water Classification."

Recent rule making and 2006 legislative action have brought the Department's water quality rules closer to compliance with federal Clean Water Act requirements and U.S. Environmental Protection Agency (EPA) regulations, establishing new levels of protection for water quality. As an outcome of these efforts, all 26,000 miles of Iowa's perennial (flowing year-round) streams are initially protected at the highest levels for recreation and warm water aquatic life uses. These actions provide initial protection for many miles of perennial streams that were previously not designated for aquatic life and/or recreational uses.

Under the rules adopted in 2006, it is presumed that all perennial streams and rivers are attaining the highest level of recreation and aquatic life uses and should be protected for activities such as fishing and swimming. This concept of assigning all perennial streams the highest use designation, unless assessments show that the stream does not deserve that level of protection, is referred to as the "rebuttable presumption." Included in the federal regulations are the provisions that allow for scientific analysis of these "presumed" recreational and aquatic life uses. An integral part of implementing the rules adopted in 2006 is verifying that a stream is capable of supporting the presumed uses.

The concept of Use Assessment and Use Attainability Analysis (UA/UAA) is being applied by the Department as a step-by-step process to gather site-specific field data on stream features and uses. The Department then assesses available information to determine if the "presumed" recreational and aquatic life uses are appropriate.

The Department elected to perform a UA/UAA on any newly designated stream that receives a continuous discharge from a facility with a National Pollutant Discharge Elimination System (NPDES) permit. Prior to issuing an NPDES permit for an affected facility, the Department will complete a UA/UAA for the receiving stream or stream network. Below is a list of the overall 138 proposed stream segments as a result of field assessments conducted from 2005 to 2008. (Duplicate listings represent separate segments along the overall reach of the stream.)

The proposed stream segment revisions are:

Class A2 Stream Segments

1. Ballard Creek (Story Co.)
2. Big Bear Creek (Powershiek/Iowa Co.)
3. Black Hawk Creek (Black Hawk/Grundy Co.)
4. Deep Creek (Plymouth Co.)
5. Deep Creek (Plymouth Co.)
6. East Nodaway River
7. Elk Run (Black Hawk Co.)
8. Flint Creek (Des Moines Co.)
9. Granger Creek (Dubuque Co.)
10. Hartgrave Creek (Franklin/Butler Co.)
11. Indian Creek (Sac Co.)
12. Little Bear Creek (Powershiek Co.)
13. Little Cedar River (Mitchell Co.)
14. Little Maquoketa River (Dubuque Co.)
15. Mosquito Creek (Pottawattamie/Harrison/Shelby Co.)
16. Mud Creek (Benton Co.)
17. Mud Creek (Polk Co.)
18. Otter Creek (Franklin Co.)
19. Otter Creek (Franklin Co.)
20. Plum Creek (Delaware Co.)
21. Shoal Creek (Appanoose Co.)
22. South Timber Creek (Marshall Co.)
23. Spring Creek (Franklin Co.)
24. Spring Creek (Franklin Co.)
25. Squaw Creek (Franklin Co.)
26. Squaw Creek (Linn Co.)
27. Stony Creek (Clay Co.)
28. Thompson River
29. Timber Creek (Marshall Co.)
30. Unnamed Creek (City of Carroll)
31. Waterman Creek (O'Brien Co.)
32. Willow Creek (Cerro Gordo Co.)
33. Willow Creek (Cerro Gordo Co.)

Class A2, B(WW-2) Stream Segments

1. Apple Creek (Linn Co.)
2. Bear Creek (Wapello Co.)
3. Blue Creek (Benton/Linn Co.)
4. Brewers Creek (Hamilton Co.)
5. Brush Creek (Marshall Co.)
6. Bulger Creek (Dallas Co.)
7. Burr Oak Creek (Jefferson Co.)
8. Clear Creek (Cerro Gordo Co.)
9. Crooked Creek (Cedar Co.)
10. Drainage Ditch #13 (Hancock Co.)

11. Drainage Ditch #4 (Wright Co.)
12. Drainage Ditch #81 (Worth Co.)
13. Dry Creek (Benton/Linn Co.)
14. East Branch Blue Creek (Lin Co.)
15. Fourmile Creek (Kossuth Co.)
16. Fourmile Creek (Union Co.)
17. Fudge Creek (Wapello Co.)
18. Hawkeye Creek (Des Moines Co.)
19. Hawkeye-Dolbee Diversion Channel (Des Moines Co.)
20. Honey Creek (Delaware Co.)
21. Indian Creek (Audobon/Shelby/Cass Co.)
22. Indian Creek (Sioux Co.)
23. Indian Creek (Tama Co.)
24. Little Flint Creek (Des Moines Co.)
25. Lutes Creek (Marshall Co.)
26. Marvel Creek (Adair Co.)
27. Mitchell Creek (Jefferson Co.)
28. Mosquito Creek (Shelby Co.)
29. Murray Creek (O'Brien Co.)
30. Neola Creek (Pottawattamie Co.)
31. North Timber Creek (Marshall Co.)
32. Orange City Slough (Sioux Co.)
33. Platte River
34. Plum Creek (Delaware Co.)
35. Sewer Creek (Jasper Co.)
36. Sixmile Creek (Sioux Co.)
37. Snipe Creek (Marshall Co.)
38. Sugar Creek (Keokuk Co.)
39. Twelvemile Creek (Union Co.)
40. Unnamed Creek (#1) (City of Atkins)
41. Unnamed Creek (#1) (City of Brighton)
42. Unnamed Creek (#1) (City of Elkhart)
43. Unnamed Creek (#1) (HWH Company)
44. Unnamed Creek (#1) (Lakewood Estates MHP)
45. Unnamed Creek (#1) (Little Sioux Corn Processing)
46. Unnamed Creek (#1) (Missouri Valley Energy - Exira)
47. Unnamed Creek (#1) (Missouri Valley Energy - Exira)
48. Unnamed Creek (#1) (Siouxland Energy)
49. Unnamed Creek (#2) (City of Atkins)
50. Unnamed Creek (#2) (City of Brighton)
51. Unnamed Creek (#2) (City of Cincinnati)
52. Unnamed Creek (#2) (City of Elkhart)
53. Unnamed Creek (#2) (City of Hedrick)
54. Unnamed Creek (#2) (City of Middletown)
55. Unnamed Creek (#2) (City of Milo)
56. Unnamed Creek (#2) (Oak Hills Subdivision)
57. Unnamed Creek (aka Johnson's Creek)

58. Unnamed Creek (Bulk Petroleum)
59. Unnamed Creek (Chantland-PVS Company)
60. Unnamed Creek (City of Creston WWTP)
61. Unnamed Creek (City of Earlville)
62. Unnamed Creek (City of Hedrick)
63. Unnamed Creek (City of Hills)
64. Unnamed Creek (City of Huxley)
65. Unnamed Creek (City of Malvern)
66. Unnamed Creek (City of Remsen)
67. Unnamed Creek (City of Sioux Center)
68. Unnamed Creek (City of Sully)
69. Unnamed Creek (Corn Belt Power)(AKA Bull Ditch)
70. Unnamed Creek (DNR Viking Lake)
71. Unnamed Creek (Echo Valley MHP #2)
72. Unnamed Creek (Ecosystems Inc.)
73. Unnamed Creek (Heartland Lysine)
74. Unnamed Creek (IAMU)
75. Unnamed Creek (John Deere Engineering Center)
76. Unnamed Creek (McCreary Community Building)
77. Unnamed Creek (Siouxpreme Packing)
78. Unnamed Creek (Stacyville COOP Creamery)
79. Unnamed Creek (Tri-Center Community School)
80. Unnamed Creek (Wells Dairy Mill Plant)
81. Waugh Branch (Keokuk Co.)
82. West Branch Blue Creek (Benton Co.)
83. West Branch Floyd River

Class A2, B(WW-3) Stream Segments

1. Barlene Creek (Des Moines Co.)
2. Little Walnut Creek (Appanoose Co.)
3. Unnamed Creek (#1) (City of Milo)
4. Unnamed Creek (Iowa Army Ammunition Plant)

Class A3, B(WW-2) Stream Segments

1. Brewers Creek (Hamilton Co.)
2. Crow Creek (Jefferson Co.)
3. Dry Creek (Linn Co.)
4. Unnamed Creek (John Deere Davenport Works)
5. Unnamed Creek (Magellan Pipeline - Johnson Co.)
6. Unnamed Creek (Wells Dairy - North Plant)

Class A3 Stream Segments

1. Big Bear Creek (Poweshiek/Iowa Co.)
2. Black Hawk Creek (Black Hawk/Grundy Co.)
3. Elk Run (Black Hawk Co.)
4. Indian Creek (Linn Co.)
5. Mosquito Creek (Pottawattamie Co.)

6. Otter Creek (Franklin Co.)
7. Plum Creek (Delaware Co.)
8. Spring Creek (Franklin Co.)
9. Squaw Creek (Franklin Co.)
10. Willow Creek (Cerro Gordo Co.)
11. Willow Creek (Cerro Gordo Co.)

Class HH Stream Segments

1. Milford Creek (Dickinson Co.)

As required by recent legislation, a Fiscal Impact Statement (FIS) has been prepared for this Notice and is available upon request.

Additional information on Iowa's Water Quality Standards, including the FIS and detailed maps of the stream assessments, can be found on the Department's Web site at <http://www.iowadnr.com/water/standards/index.html>.

Any person may submit written suggestions or comments on the proposed amendment through April 30, 2009. Such written material should be submitted to Adam Schnieders, Iowa Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319; fax (515)281-8895; or E-mail [adam.schnieders@dnr.iowa.gov](mailto:adam.schnieders@dnr.iowa.gov). Persons who have questions may contact Adam Schnieders at (515)281-7409.

Persons are invited to present oral or written comments at a series of public hearings, which will be held throughout the state as follows:

April 7, 2009 1 p.m.

Wallace State Office Building  
4<sup>th</sup> Floor Conference Rooms  
502 E. 9<sup>th</sup> St.  
Des Moines, Iowa

April 9, 2009 10 a.m.

Cherokee Community Center  
530 W. Bluff St.  
Cherokee, Iowa

April 9, 2009 6 p.m.

Atlantic Municipal Utilities Conference Room  
15 W. 3<sup>rd</sup> St.  
Atlantic, Iowa

April 14, 2009 10 a.m.

Falcon Civic Center  
1305 5th Ave NE  
Independence, Iowa

April 14, 2009 6 p.m.

Iowa City Public Library  
123 Linn St.  
Iowa City, Iowa

April 16, 2009  
Clear Lake Community Meeting Room  
15 N. 6<sup>th</sup> St.  
Clear Lake, IA

1 p.m.

Any persons who plan to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advise of specific needs.

This amendment may have an impact upon small businesses.

This amendment is intended to implement Iowa Code chapter 455B, division III, part 1.

The following amendment is proposed.

Amend subrule 61.3(5) as follows:

**61.3(5)** Surface water classification. The department hereby incorporates by reference "Surface Water Classification," effective ~~March 22, 2006~~ [effective date of rule to be inserted]. This document may be obtained on the department's Web site at <http://www.iowadnr.com/water/standards/index.html>.





Stream Name	Basin	Rulemaking (Y/N)	Recreational Use Designations			Aquatic Life Use Designations		
			Stream Segment Length (miles)	Current Use Designation	Recommended Use Designation	Aquatic Stream Segment Length (miles)	Current Use Designation	Recommended Use Designation
162 Unnamed Creek (IAAP)	Skunk	Y	0.63	A1	A2	0.63	B(WW-1)	B(WW-3)
163 Unnamed Creek (IAAP)	Skunk	N	0.85	No Rec Use	No Rec Use	0.85	General Use	General Use
164 Unnamed Creek (IAMU)	Des Moines	Y	2.72	A1	A2	2.72	B(WW-1)	B(WW-2)
165 Unnamed Creek (John Deere Davenport Works)	Northeast	Y	4.20	A1	A3	4.2	B(WW-1)	B(WW-2)
166 Unnamed Creek (John Deere Engineering Center)	Iowa-Cedar	Y	0.73	A1	A2	0.73	B(WW-1)	B(WW-2)
167 Unnamed Creek (Jolly Roger Campground)	Iowa-Cedar	N	0.11	No Rec Use	No Rec Use	0.11	General Use	General Use
168 Unnamed Creek (Magellan Pipeline - Johnson Co.)	Iowa-Cedar	Y	0.60	A1	A3	0.6	B(WW-1)	B(WW-2)
169 Unnamed Creek (McCreary Community Building)	Des Moines	Y	0.58	A1	A2	0.58	B(WW-1)	B(WW-2)
170 Unnamed Creek (Murphy Farms)	Des Moines	N	0.63	No Rec Use	No Rec Use	0.63	General Use	General Use
171 Unnamed Creek (Siouxpreme Packing)	Western	Y	2.90	A1	A2	2.9	B(WW-1)	B(WW-2)
172 Unnamed Creek (Stacyville COOP Creamery)	Iowa-Cedar	Y	0.04	A1	A2	0.04	B(WW-1)	B(WW-2)
173 Unnamed Creek (Tri-Center Community School)	Western	Y	0.97	A1	A2	0.97	B(WW-1)	B(WW-2)
174 Unnamed Creek (Van Diest Supply)	Des Moines	N	2.45	No Rec Use	No Rec Use	2.45	General Use	General Use
175 Unnamed Creek (Wells Dairy - North Plant)	Western	Y	0.21	A1	A3	0.21	B(WW-1)	B(WW-2)
176 Unnamed Creek (Wells Dairy Mill Plant)	Western	Y	0.02	A1	A2	0.02	B(WW-1)	B(WW-2)
177 Walnut Creek (Appanoose Co.)	Southern	N	0.33	A1	A1			
178 Walnut Creek (Jefferson Co.)	Skunk	N	1.08	A1	A1	1.08	B(WW-1)	B(WW-1)
179 Waterman Creek (O'Brien Co.)	Western	Y	1.20	A1	A2			
180 Waugh Branch (Keokuk Co.)	Skunk	Y	1.80	A1	A2	1.8	B(WW-1)	B(WW-2)
181 West Branch Blue Creek (Benton Co.)	Iowa-Cedar	Y	3.23	A1	A2	3.23	B(WW-1)	B(WW-2)
182 West Branch Floyd River	Western	Y	53.30	A1	A2	5.7	B(WW-1)	B(WW-2)
183 West Fork Cedar River	Iowa-Cedar	N	31.45	A1	A1			
184 Willow Creek (Cerro Gordo Co.)	Iowa-Cedar	Y	3.60	A1	A3			
185 Willow Creek (Cerro Gordo Co.)	Iowa-Cedar	Y	2.57	A1	A2			
186 Willow Creek (Cerro Gordo Co.)	Iowa-Cedar	Y	0.28	A1	A3			
187 Willow Creek (Cerro Gordo Co.)	Iowa-Cedar	Y	4.91	A1	A2			
	Yes		138					
	No		49					

UA/UAA Batch #2 Summary Table

Recreational Use Mileage Breakdown	Miles	% of assessed stream miles	Segment Count
A1 Miles	115.75	11.01%	12
A2 Miles	833.88	79.29%	120
A3 Miles	67.92	6.46%	17
No Rec Use Miles	27.59	2.62%	37
Total	1051.64		186

  

Aquatic Life Use Mileage Breakdown	Miles	% of assessed stream miles	Segment Count
B(WW-1)	1.75	0.59%	3
B(WW-2)	246.09	82.67%	90
B(WW-3)	15.76	5.29%	4
General Use	27.59	9.27%	37
Total	297.69		134